

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 25, 2004

Regulation Package #1003-27

CDSS MANUAL LETTER NO. EAS-04-06

TO: HOLDERS OF THE EAS MANUAL

Regulation Package #1003-27**Effective 6/08/04****Sections 42-207 and 42-215**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm.

Assembly Bill (AB) 231 (Chapter 743, Statutes of 2003) became effective January 1, 2004. AB 231 adopted Welfare and Institutions Code Section 18901.9 which allowed the California Department of Social Services to align its vehicle resource rules governing the Food Stamp Program with those of an alternative program. Under the authority of this statute, the food stamp regulations were aligned with those of the CalWORKs Child Care Program, and, consequently, vehicles are exempt from being counted as resources when determining food stamp eligibility as allowed in Public Law 106-387, Section 847(a) and Federal Register Volume 68, No. 168, Page 51933 published on August 29, 2003. Emergency regulations were implemented on January 1, 2004 to comply with AB 231 and were included in Manual Letter No. EAS-04-01. Prior to the implementation of AB 231, CalWORKs was required to use the Food Stamp Program vehicle evaluation rules when determining eligibility for the CalWORKs Program. AB 231 eliminated this requirement and amended Welfare and Institutions Code Section 11155 to establish treatment of motor vehicles when determining CalWORKs eligibility. It was the intent of the Legislature that the Food Stamp Program rules governing treatment of motor vehicles would continue to apply in the CalWORKs Program. Therefore, the Food Stamp Program regulations, located in the California Department of Social Services Manual of Policies and Procedures, governing treatment of motor vehicles, were moved from Division 63 (Food Stamp Program Manual) to Division 42 (Eligibility and Assistance Standards Manual).

These regulations were considered at the Department's public hearing held on March 17, 2004. No public testimony was received and only a few minor nonsubstantial amendments were made to the emergency regulations for clarity and consistency and are reflected in this manual letter.

FILING INSTRUCTIONS

For all pages in this manual letter, revisions are indicated by a vertical line in the left margin. Revisions shown in graphic screen will continue to be shown in that manner on the other pages of this manual until those pages are released in a manual letter. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing EAS changes was EAS-04-05.

Page(s)172 and 173
183.1 through 183.6**Replace(s)**Pages 172 and 173
Pages 183.1 through 183.6

Attachments

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42-207	PROPERTY WHICH MAY BE RETAINED BY AN APPLICANT	42-207
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- .1 An applicant or recipient AU may retain countable resources in an amount equal to the amount allowed in the Food Stamp regulations at Manual of Policies and Procedures Section 63-1101. The value of real and personal property including resources not excluded elsewhere by regulations, owned by a CalWORKs FG/U family shall not exceed the Food Stamp resource limit. If the limit is exceeded, the family or child is ineligible.

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- .2 Food Stamp regulations at Manual of Policies and Procedures Section 63-1101.1 allows retention of \$3,000 for an AU which includes at least one member aged 60 or older or a disabled member, and \$2,000 for all other AUs. These limits may change in accordance with changes in Food Stamp resource limits.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2, and 11257, Welfare and Institutions Code; and 7 U.S.C. 2014(g)(1).

42-209	DIFFERENTIATION OF PROPERTY AND INCOME	42-209
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Some payments may be considered property, income, or a combination of both. For the differentiation of such payments, see Section 44-105.

42-211	PROPERTY ITEMS TO BE INCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED	42-211
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.1 Real Property to Be Included

.11 In addition to the items included in the definition of real property in Section 42-203.1, the following are to be evaluated as real property:

- a. Cemetery property held for profit.
- b. Stocks in a water company not appurtenant to the land in furnishing water for agricultural purposes.
- c. The items defined in this section which are owned (see Section 42-203) by an applicant or recipient are subject to the limits set forth in Section 42-207, unless specifically excluded by Section 42-213.1.

.12 Real property owned by an applicant or recipient includes real property which:

- a. secures any of his debts.
- b. is being purchased by him under a contract of sale, or mortgage and/or deed of trust.
- c. is being sold by him under contract of sale, but no contract has actually been signed.
- d. is being held by him with retention of life estate.
- e. is held in trust for him and is available to him for disposition or use.
- f. is held for him in an undistributed estate and is available for his use prior to distribution.
- g. is being sold by him and is held in escrow.

.2 Personal Property to Be Included: The county shall determine personal property and vehicles to be included in evaluating property which may be retained in accordance with methods established under the Food Stamp regulations at Manual of Policies and Procedures Sections 63-501.1 and .2).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11155 (Ch. 270, Stats. of 1997), Welfare and Institutions Code.

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- .413 A household may indicate that for some reason, such as body damage or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source. Also, households shall be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the CWD is unable to make an accurate appraisal. If a vehicle is no longer listed in the blue book, the household's estimate of the value of the vehicle shall be accepted, unless the CWD has reason to believe the estimate is incorrect. In that case, and if it appears that the vehicle's value will affect eligibility, the household shall obtain an appraisal or produce other evidence of its value, such as a tax assessment or a newspaper advertisement which indicates the amount for which like vehicles are being sold.

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.42 Handling of Unlicensed Vehicles

The value of unlicensed vehicles shall be their equity value, unless an exemption applies. The equity value is the fair market value less encumbrances.

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.43 Handling of Licensed Vehicles.

The value of licensed vehicles shall be the greater of the fair market value as provided in Section 42-215.44, or the equity value as provided in Section 42-215.45, unless an exemption applies as provided in Section 42-215.431.

- .431 The entire value of any licensed vehicle shall be exempt if any of the following apply:
- (a) It is used primarily (over 50 percent of the time the vehicle is used) for income-producing purposes such as, but not limited to, a taxi, truck or fishing boat;
 - (b) It annually produces income that is consistent with its fair market value, even if used on a seasonal basis;
 - (c) It is necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member; for example, the vehicle of a traveling sales person or a migrant farm worker following the work stream;

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- (d) It is used as the family's residence.
- (e) It is necessary to transport a physically disabled family member, including an excluded disabled family member, regardless of the purpose of the transportation.

Example:

- (1) If the physical disability of the individual is not evident to the eligibility worker, verification shall be required.
- (2) The individual shall be required to provide a statement from a physician certifying that the individual is physically disabled. The disability may be temporary or permanent.
- (3) There shall be a limit of one vehicle per physically disabled household member.
- (4) The vehicle need not have special equipment or be primarily used by or for the transportation of the physically disabled household member. However, a vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person.
- (f) It would be exempted under any of Sections 42-215.431(a) through (d), inclusive, but the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.
- (g) It is used to carry fuel for heating or water for home use, when the transported fuel or water is the primary source of fuel or water for the family.
- (h) The equity value of the vehicle is one thousand five hundred and one dollars (\$1,501) or less.

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- .44 Each licensed vehicle that is not exempted under Section 42-215.431 shall be individually evaluated for fair market value, and any portion of the value that exceeds four thousand six hundred fifty dollars (\$4,650) shall be attributed in full market value toward the family's resource level, regardless of any encumbrances on the vehicle, the amount of the family's investment in the vehicle, and whether the vehicle is used to transport family members to and from employment. Each vehicle shall be appraised individually. The fair market value of two or more vehicles shall not be added together to reach a total fair market value in excess of the current vehicle exclusion limit.
 - .441 For example, a household owning an automobile with a fair market value of \$5,500 shall have the current vehicle exclusion limit (\$4,650 as of October, 1996) excluded and \$850 applied toward its resource level.
- .45 Licensed vehicles shall also be evaluated for their equity value, except for the following:
 - .451 Vehicles excluded by Section 42-215.43.
 - .452 One licensed vehicle per adult family member, regardless of the use of the vehicle.
 - .453 Any other licensed vehicle driven by a household member under 18 years of age (or an ineligible noncitizen or disqualified household member under age 18 whose resources are being considered available to the household) to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. The equity exclusion applies during temporary periods of unemployment, to a vehicle which a member under age 18 customarily drives to commute to and from employment.
- .46 In the event a licensed vehicle is assigned both a fair market value in excess of the vehicle exclusion limit as specified in Section 42-215.441 and an equity value, only the greater of the two amounts shall be counted as a resource.

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- .461 When computing the value of a licensed vehicle which has not been totally excluded or is not equity exempt, determine both the FMV and the equity value of the vehicle. The larger of the two values is considered the resource value and counted in the resource limit.

Example: The greater of the two amounts is counted as a resource.

Computation of FMV		Computation of Equity Value	
\$5,000	FMV	\$5,000	FMV
-4,650	Exclusion Limit	-3,250	Amount Owed
\$ 350	Excess FMV	\$1,750	Equity Value

The greater of the two amounts to be considered as a resource is \$1,750.

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- .47 Steps in evaluating vehicles:

.471 **Step One**

Determine if any vehicle in the household is excludable as a resource. Vehicles in this category include those that are:

- (a) Income producing;
- (b) Annually producing income consistent with FMV, even if used on a seasonal basis;
- (c) Necessary for long distance travel to employment other than daily commuting, e.g., traveling salesman;
- (d) Used as a home;

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- (e) Necessary to transport a physically disabled household member;
- (f) Previously used as income producing by a self-employed household member who is temporarily unemployed. Exclude for one year period from date of termination of self-employment in farming.
- (g) Household depends on vehicle to carry fuel for heating or water for home use when such fuel or water is the primary source of fuel or water for the household.

If none of the vehicles in the household are categorized as excludable from resource consideration, or there are remaining vehicles left to be evaluated after others have been determined excludable, go to Step 2.

.472 Step Two

Exclude any vehicle, licensed or unlicensed, that is an inaccessible resource (a vehicle that will not produce an estimated return of more than \$1,500). Valuation of an inaccessible vehicle is required at application and when a new vehicle is reported. Reevaluation is required only at redetermination.

.473 Step Three

Of the remaining licensed vehicles, determine the number of adult household members and exempt one vehicle each from the equity valuation. The FMV must be calculated, and the excess FMV is considered as a countable resource. Adult household members also include ineligible noncitizens or disqualified family members whose resources are considered available to the AU.

Then, determine if any of the remaining licensed vehicles in the family are used by a teenager under age 18 to drive to work, school, job training, or to look for work. If there is a vehicle used by a teenager for any of these purposes, it is exempt from the equity value, but must be evaluated for FMV. The excess FMV is considered a countable resource. Family members under the age of 18 also include an ineligible noncitizen or disqualified household member under age 18 whose resources are considered available to the AU.

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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.474 **Step Four**

For any remaining licensed vehicles, compute the FMV and the equity value. Use the greater of the excess FMV or equity value as the countable resource value.

.475 **Step Five**

For any remaining unlicensed vehicles compute the equity value of each and use the resultant amount as a countable resource value.

Add the values of the above values to arrive at the total vehicle resource value.

.48 The exclusions for licensed vehicles as specified in Section 42-215.431 shall also apply to:

.481 unlicensed vehicles on those Indian reservations that do not require vehicles driven by tribal members to be licensed;

.482 licensed vehicles used by ineligible noncitizens or disqualified persons whose resources are considered available to the family.

.5 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

.6 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063, 10554, 11155 and 18901.9 (Ch. 743, Stats. of 2003), Welfare and Institutions Code; and Federal Register Volume 68, No. 168, Page 51933 published on August 29, 2003.